

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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IN Re TOP TANKERS, INC.  
SECURITIES LITIGATION

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Civil Action No. 06 Civ. 13761 (CM)(KNF)

Judge Colleen McMahon

**LEAD PLAINTIFF'S MOTION FOR DISTRIBUTION OF NET SETTLEMENT FUND**

Lead Plaintiff Joseph A. DeShayes, Jr., through his counsel, brings this motion to distribute the Settlement Fund in the above-captioned action (the "Action"), less any taxes, fees and expenses awarded by the Court (the "Net Settlement Fund") and avers as follows:

1. By its Memorandum Decision and Order Approving Settlement and Awarding Fees dated July 31, 2008, the Court approved the proposed Settlement of this Action and the plan for allocating the Net Settlement Fund as fair, reasonable and adequate.

2. In accordance with the Notice of Proposed Settlement, Motion for Attorneys' Fees and Reimbursement of Expenses and Fairness Hearing (the "Notice") sent to potential members of the Class, all Class Members wishing to participate in the Net Settlement Fund were required to complete a Court-approved Proof of Claim and Release form ("Proof of Claim") and to mail the Proof of Claim to the post office box identified in the Notice, which was maintained by Strategic Claims Services, LLC ("SCS"), the Claims Administrator for the Settlement.

3. SCS administered the Settlement, and performed all analyses and accounting procedures in connection with the claims filed, and believes itself to be ready to effectuate distribution of the Net Settlement Fund.

**WHEREFORE**, upon the annexed Affidavit of Paul Mulholland of SCS, the Declaration of Benjamin J. Sweet of Barroway Topaz Kessler Meltzer & Check, LLP (formerly, Schifffrin Barroway Topaz & Kessler, LLP), on behalf of Lead Counsel, and upon all prior proceedings herein, the undersigned hereby move this Court for an order pursuant to Rule 23(e) of the

Federal Rules of Civil Procedure: (i) approving the administrative determinations of SCS accepting and rejecting the claims submitted herein; (ii) directing payment of \$81,999.85 out of the Settlement Fund to SCS for the balance of its fees and expenses incurred in connection with the administration of the Settlement; (iii) directing distribution of the Net Settlement Fund, after deduction of the payment requested herein, to Class Members whose Proofs of Claim have been accepted; (iv) approving the plan for re-distribution and/or donation of any funds remaining in the Net Settlement Fund following distribution to Class Members; (v) authorizing destruction of paper copies of Proofs of Claim one year after distribution of the Net Settlement Fund, and authorizing destruction of electronic copies of claim records three years after distribution of the Net Settlement Fund; and (vi) for such other and further relief as this Court deems appropriate;

**WHEREFORE**, Lead Plaintiff respectfully requests that the Court enter an order in the form of the proposed Order Authorizing Distribution of Net Settlement Fund annexed hereto as Exhibit A.

DATED: December 4, 2009

**LABATON SUCHAROW LLP**

/s/ Ira A. Schochet

Joel H. Bernstein

Ira A. Schochet

140 Broadway

New York, NY 10005

Telephone: (212) 907-0700

Facsimile: (212) 818-0477

***Liaison Counsel for Lead Plaintiff  
and the Class***

Benjamin J. Sweet

Jennifer L. Keeney

Jennifer L. Enck

**BARROWAY TOPAZ KESSLER**

**MELTZER & CHECK, LLP**

280 King of Prussia Road

Radnor, PA 19087

Telephone: (610) 667-7056

Facsimile: (610) 667-7706

***Lead Counsel for Lead Plaintiff  
and the Class***